

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Statesville Division
Civil Action No.: 5:21-cv-15**

MELISSA BETH KROKSON, BENTLEY)
KROKSON, and BMD MAC & CHEESE,)
LLC,)

Plaintiffs,)

vs.)

MAC AND CHEESE FRANCHISE)
OPERATIONS, LLC, D/B/A I HEART)
MAC & CHEESE,)

Defendant.)

**DEFENDANT MAC AND CHEESE
FRANCHISE OPERATIONS, LLC D/B/A
I HEART MAC & CHEESE'S CONSENT
MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Mac and Cheese Franchise Operations, LLC d/b/a I Heart Mac & Cheese ("Defendant") respectfully moves this Court for a twenty-one (21) day extension of time, through and including Wednesday, March 3, 2021, within which to answer or otherwise respond to Plaintiffs' Amended Complaint. In support of this Motion, Defendant submits to the Court as follows:

1. Plaintiffs filed their Complaint (the "original Complaint") in the General Court of Justice, Superior Court Division, of Iredell County, North Carolina on November 16, 2020 and caused a summons (the "original Summons") to be issued in Case No. 20-CVS-2807 (the "State Court Proceeding"). (Dkt. No. 1-1, -2.)

2. On December 7, 2020, Plaintiffs filed an Amended Complaint (the "Amended Complaint") and caused an Alias and Pluries Summons (the "A&P Summons") to be issued in the State Court Proceeding. (Dkt. No. 1-3, -4.)

3. Defendant first received a copy of the Amended Complaint and A&P Summons on January 4, 2021. Defendant was not served with the original Complaint or the original Summons.

4. Defendant filed a timely Notice of Removal pursuant to 28 U.S.C. §§ 113(c), 1332, 1441 and 1446 on February 3, 2021. (Dkt. No. 1.)

5. Pursuant to Rule 81(c)(2) of the Federal Rules of Civil Procedure, Defendant has seven days after the Notice of Removal was filed to answer or otherwise respond to the Amended Complaint, making Defendant's responsive pleading due on or before February 10, 2021.

6. Accordingly, the time for Defendant to answer or otherwise respond to Plaintiffs' Amended Complaint has not yet expired.

7. Defendant has not previously moved for an extension of time to respond to the Amended Complaint.

8. In order to allow Defendant sufficient time to fully analyze the allegations and claims asserted in Plaintiffs' Amended Complaint and to prepare a response, Defendant requests a twenty-one (21) day extension of time from February 10, 2021, through and including March 3, 2021, within which to answer or otherwise respond to the Amended Complaint.

9. This Motion is not for the purpose of delay and is made in good faith.

10. Defendants' counsel has conferred with Plaintiffs' counsel regarding the requested extension of time, and Plaintiffs' counsel consents to this motion.

WHEREFORE, pursuant to Rule 6 of the Federal Rules of Civil Procedure, Defendant respectfully requests that this Court enter an order setting its deadline to answer or otherwise plead to Plaintiffs' Amended Complaint through and including Wednesday, March 3, 2021.

This the 5th day of February, 2021.

Respectfully submitted,

/s/ William M. Butler

Robert C. Bowers

N.C. Bar No. 23009

William Medearis Butler

N.C. Bar No. 49116

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system. I further certify that on this day the foregoing document was sent via U.S. Mail, postage prepaid, and addressed as follows to the following counsel for Plaintiff:

Joe Dye Culik
Dye Culik PC
6000 Fairview Rd., Suite 1200
Charlotte, North Carolina 28210

Dated: February 5th, 2021

By: /s/ William M. Butler
William M. Butler